

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 106 – HB 95

March 30, 2015

SUMMARY OF ORIGINAL BILL: Delays, from July 1, 2015, until July 1, 2017, the implementation date of certain streamlined sales tax provisions. Establishes that the retail sale of, use of, or subscription to warranty or service contracts covering the repair or maintenance of tangible personal property is to be taxed similarly to the retail sale of, use of, or subscription to computer software maintenance contracts and specifies when such contracts are subject to sales tax in this state. Removes the requirement that certain taxpayers, that are owned directly or indirectly by public real estate investment trusts (REITs), provide schedules indicating the name and federal identification number of such REITs when filing franchise and excise taxes.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (005345): Changes the effective date for the warranty or service contract provisions of the bill, from July 1, 2015, to October 1, 2015.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The effective date of the streamlined sales tax agreement provisions has been historically extended by two years since the original enactment of Public Chapter 357 of the Public Acts of 2003 and the subsequent revision of the agreement by Public Chapter 959 of the Public Acts of 2004. Most recent extensions took place six years ago, with Public Chapter 530 of the Public Acts of 2009, four years ago, with Public Chapter 72 of the Public Acts of 2011, and two years ago with Public Chapter 480 of the Public Acts of 2013.
- Extending the effective date of the streamlined sales tax agreement provisions by two years postpones the fiscal impact originally estimated for the agreement (adjusted for subsequent tax changes, economic growth, and inflation), resulting in a significant fiscal impact on the state and local government that consists of unknown amounts of forgone revenue and cost avoidances for implementation. However, any impact on the current budgetary levels is estimated to be not significant.
- Under current law, sales of extended warranty or service contracts covering the repair and maintenance of motor vehicles are subject to sales tax when the seller of the

warranty or maintenance contract is located or has nexus in Tennessee, even if the vehicles are subsequently removed from the state.

- Further, if a warranty or service contract on such vehicles is sold by a seller located outside the state and the seller is not registered for or required to collect Tennessee sales tax on the transaction, the Tennessee customer does not have to pay Tennessee use tax on the charges for such warranty or maintenance contract.
- The proposed legislation as amended will reverse the current practice by subjecting to use tax sales of extended warranty or service contracts on vehicles purchased out of state to be used in Tennessee, and exempting from Tennessee sales tax extended warranty or service contracts on vehicles purchased in Tennessee and subsequently removed from the state.
- Current state and local tax collections from sales of extended warranty or service contracts are unknown. However, it is estimated that any decrease in sales tax collections from exempting sales of extended warranty or service contracts on vehicles sold in Tennessee and subsequently removed from the state will be offset by an increase in use tax collections from taxing sales of such contracts on vehicles sold outside of Tennessee and subsequently brought to be used in the state. The net impact on state and local sales and use tax collections is estimated to be not significant.
- Removing the requirement for certain taxpayers to provide specific paperwork when filing franchise and excise tax returns will not impact how net earnings or net losses are defined for such taxpayers and will not result in a significant state or local fiscal impact.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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